

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

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AARON COHEN, on behalf of himself
and all others similarly situated,

Plaintiff,

COMPLAINT-CLASS ACTION
JURY TRIAL REQUESTED

v.

DITECH FINANCIAL LLC formerly known as
GREEN TREE SERVICING LLC

Defendant.

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Plaintiff, by his attorney The Law Offices of Shimshon Wexler, P.C., as and for
his Complaint against the defendant, on behalf of a class pursuant to Rule 23 alleges as follows:

INTRODUCTION

1. Plaintiff brings this action to secure redress from unlawful credit and collection practices engaged in by defendant Ditech Financial LLC formerly known as Green Tree Servicing, LLC (“Green Tree”). Plaintiff alleges violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. (“FDCPA”).
2. The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements, in connection with the collection of a debt and requires certain disclosures. 15 U.S.C. §§1692d, 1692e, 1692f and 1692g.

JURISDICTION AND VENUE

3. This Court has jurisdiction under 15 U.S.C. §1692k (FDCPA).
4. Venue and personal jurisdiction in this District are proper because:
 - a. Defendant does business within this District;

b. The acts giving rise to this lawsuit occurred within this district.

PARTIES

5. Plaintiff, Aaron Cohen, is an individual who resides in Rockland County and is a “consumer” as defined by the FDCPA.

6. Defendant, Ditech Financial LLC is a Delaware limited liability company with an address of service of c/o CT Corporation System, 111 Eighth Avenue in New York, NY 10011.

7. Ditech Financial LLC is a company engaged in the business of collecting debts.

8. Green Tree obtains debts that have been deemed delinquent by the original entities who granted the credit which created the debt.

9. Green Tree is a debt collector as that term is defined by 15 U.S.C. §1692a(6).

FACTS

10. Shortly before August 12, 2015 plaintiff received a collection communication from Green Tree. The communication is attached as Exhibit A.

11. Exhibit A qualifies as a “communication” as defined by the FDCPA. *Hart v. FCI Lender Services, Inc.*, 2015 WL 4745349 (2nd Cir. Aug. 12, 2015)

12. In delivering the collection communication, Green Tree sought to collect a financial obligation incurred for personal, family or household purposes and not for business purposes. Specifically, Green Tree was attempting to collect a mortgage loan for plaintiff’s home.

13. In delivering the collection communication, Green Tree was attempting to collect a “debt” as defined by the FDCPA.

14. At the time Green Tree delivered the collection communication Green Tree knew that Plaintiff was represented by counsel.

15. The collection communication failed to state that the communication was from a debt collector.

CLAIM FOR RELIEF VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

16. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

17. The collection communication violates 15 U.S.C. §§1692b, c, d, e or f.

18. Green Tree is liable to the plaintiff for statutory damages pursuant to 15 U.S.C. §1692k because of its FDCPA violations.

CLASS ALLEGATIONS

19. Plaintiff brings this action on behalf of a class, pursuant to Federal Rules of Civil Procedure Rule 23(a) and 23(b)(3).

20. The class consists of all consumers with a New York address who have received a communication from Green Tree in a form substantially similar to Exhibit A where Green Tree was attempting to collect a debt incurred primarily for personal purposes on or after a date one year prior to the filing of this action and on or before a date 20 days after the filing of this action where Green Tree's records show that the communication failed to state that it was an attempt to collect a debt.

21. The class is so numerous that joinder of all members is not practicable. On information and belief, there are at least 40 members of the class.

22. There are questions of law and fact common to the class, which common questions predominate over any questions relating to individual class members. The predominant common question is whether Exhibit A qualifies as a communication and whether it was allowed to be provided to Plaintiff without stating that it was a communication from a debt collector.

23. Plaintiff's claim is typical of the claims of the class members. All are based on the same factual and legal theories.

24. Plaintiff will fairly and adequately represent the class members. Plaintiff has retained counsel experienced in class actions and FDCPA litigation.

25. A class action is superior for the fair and efficient adjudication of this matter, in that:

- a. Individual actions are not economically feasible;
- b. Members of the class are likely to be unaware of their rights;
- c. Congress intended class actions to be the principal enforcement mechanism under the FDCPA.

WHEREFORE, the Court should enter judgment in favor of plaintiff and the class and against the defendant for:

- (1) Statutory damages;
- (2) Attorney's fees, litigation expenses and costs of suit;
- (3) Such other and further relief as the Court deems proper.

Dated: Atlanta, Georgia
September 10, 2015

The Law Offices of Shimshon Wexler, PC

By: /s Shimshon Wexler
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Plaintiff requests a trial by jury on all issues so triable.

By: /s Shimshon Wexler
Shimshon Wexler

EXHIBIT A

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IMPORTANT
IMPORTANTE

INFORMATION
INFORMACION

ENCLOSED
INCLUIDO

DATE ____/____/____

FECHA ____/____/____

IMPORTANT IMPORTANTE

**PLEASE CALL
LLAME POR FAVOR**

Green tree mortgage

NAME / NOMBRE

800-666-1143

TELEPHONE NUMBER*

NÚMERO DE TELÉFONO*

**PLEASE BE READY TO GIVE YOUR ACCOUNT NUMBER.
POR FAVOR ESTÉ LISTO PARA DAR SU NÚMERO DE CUENTA.**

**WE ARE EXPECTING YOUR CALL TODAY.
ESPERAMOS SU LLAMADA HOY.**

***CALLS ARE RANDOMLY MONITORED & RECORDED TO ENSURE QUALITY SERVICE.**

***LA LLAMADA PUEDE SER SUPERVISADA Y GRABADA PARA ASEGURAR LA CALIDAD DEL SERVICIO.**

SPI-020-12.09

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